

**Notice of Allowability**

Application No.

10/590,305

Examiner

Charanjit S. Aulakh

Applicant(s)

NISHI ET AL.

Art Unit

1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Paper filed on 12 October 2007.
2. ☒ The allowed claim(s) is/are 1,21,22,27,29 and 41-72.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

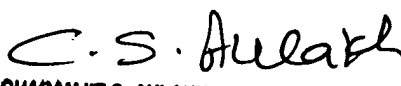
\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application  |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>12/17/07</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                                    |
|  | 9. <input type="checkbox"/> Other _____  |

  
CHARANJIT S. AULAKH, PH.D  
PRIMARY EXAMINER

### DETAILED ACTION

1. According to paper filed on Oct. 12, 2007, the applicants have canceled claims 24 and 37 and furthermore, have amended claim 1.
2. Claims 1, 21, 22, 25-29 and 38-72 are now pending in the application.

### EXAMINER'S AMENDMENT

3. The following amendment is pursuant to a telephone conversation with the applicant's attorney on Dec. 17, 2007. The following changes have been made in the specification and claims:

In the specification, page 1, under the title, insert ----- This application is a 371 of PCT/JP05/03545 filed 02/24/2005 which claims priority to Japan 2004-049255 filed 02/25/2004 -----.

Cancel claims 25, 26, 28 and 38-40 without prejudice.

In claim 27, line 2, delete ----- for the prophylaxis or treatment of respiratory diseases --.

In claim 41, line 1; after for, delete ----- preventing or ----.

In claim 41, line 3, after disease, delete --- by --- and insert ----- in a mammal in need thereof which comprises ----- and furthermore, last line, before mammal, delete --- a --- and insert --- said ----.

In claim 42, lines 1-2, after claim, delete ----40 ---- and insert ---- 41 ----.

In claim 43, lines 1-2, after claim, delete ----37 ---- and insert ---- 41 ----.

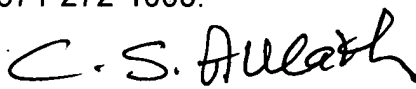
4. Claims 1, 21, 22, 27, 29 and 41-72, renumbered as claims 1-37, are allowed since the applicants have amended claims to overcome all rejections and furthermore, due to

their persuasive arguments regarding well established utility of neurokinin receptor antagonists ( NK1, NK2 and NK3 ) for treating asthma, bronchitis and COPD in the prior art.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charanjit S. Aulakh whose telephone number is (571)272-0678. The examiner can normally be reached on Monday through Friday, 8:30 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres can be reached on (571)272-0867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Charanjit S. Aulakh  
Primary Examiner  
Art Unit 1625